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To:	Name Mail Stop Appeal Brief – Patents (Examiner Elizabeth M. Cole)	Company USPTO Art Unit 1771	Fax Number 703-872-9306
Subject:	Reply Brief for Application. No. 09/992,110 filed November 5, 2001 (Confirmation No. 7471)		

From:	Nathan Hendon	Page:	1 of 4
Dept:	Patent	Date:	June 21, 2005
Loc	Roswell, GA	Time:	5:15 P.M. (EST)

Transmitted herewith are the following:

- 3 pages, Reply Brief under 37 C.F.R. 41.41 in response to Examiner's Answer mailed April 21, 2005 regarding the Pending Appeal of Application No. 09/992,110.

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In the United States Patent and Trademark Office

Appellants :	Palacio et al.	Docket No.:	16422
Serial No.:	09/992,110	Group:	1771
Confirmation No:	7471	Examiner:	Cole, Elizabeth M.
Filed:	November 5, 2001	Date:	June 21, 2005
For:	METHOD OF RECYCLING BONDED FIBROUS MATERIALS AND SYNTHETIC FIBERS AND FIBER-LIKE MATERIALS PRODUCED THEREOF		

Reply Brief Under 37 C.F.R. §41.41

Mail Stop Appeal Brief - Patents
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Examiner's Answer mailed April 21, 2005, Appellants submit the following remarks. This Reply Brief is submitted to reply briefly to certain of the Examiner's technical characterizations.

In the Examiner's Answer under point (9) (Grounds of Rejection) the Examiner's position is stated to be that the method of Didwania et al., U.S. Pat. No. 4,753,682 ("Didwania"), meets all the limitations of the claimed invention except that Didwania does not teach employing synthetic fibers. The Examiner contends that Milding et al., WO 96/06222 ("Milding"), teaches fabrics with synthetic fibers, natural fibers, or combinations of the both which can be recycled. The Examiner concludes that one skilled in the art would be motivated to use the fabrics of Milding in the method of Didwania. Applicants maintain that the Examiner has oversimplified the teachings of Didwania and that no motivation to combine the references exists in either Didwania or Milding.

Didwania discloses a process for the recovery of paper-making fibers from latex bonded broke (i.e., waste paper) or paper containing latex (column 1, lines 8-12). The specific process of Didwania teaches the addition of shredded latex bonded cellulosic broke to an aqueous alkaline solution having a sodium hydroxide concentration in the range of 0.5 to 5 mol percent. The shredded latex bonded cellulosic broke is then agitated within the alkaline solution to get "up to 60 to 70 [sic] defiberization of the broke" (column 2, lines 28 - 45). Substantially complete defiberization of the latex bonded cellulosic broke is then completed by washing the partially separated latex bonded cellulosic broke fibers and introducing them into a deflaker (column 2, 46 - 50).

The process of Didwania is specific to the processing of latex bonded papers and gives no suggestion that one could reasonably expect that the process could be used to separate the fibers of synthetic nonwoven materials. Didwania teaches a very specific concentration of sodium hydroxide in

an aqueous alkaline solution followed by a washing step and a deflaking step (column 2, lines 37 – 51). The process of Didwania is designed specifically for separating the cellulosic fibers of latex bonded papers, and more specifically those latex bonded papers where the latex bonding the cellulosic fibers are solids of a select group of copolymers (column 2, lines 38 – 42). There is no teaching or suggestion in Didwania that anything other than those latex bonded papers bonded with the selected types of latex binder can be successfully separated by the disclosed process.

Additionally, the background information in column 1 of Didwania suggests that separation of cellulosic fibers of latex bonded broke is sensitive to excessive chemical treatment and/or excessive mechanical treatment (column 1, lines 37 – 50). There is no suggestion that the process of Didwania can be successfully used on latex bonded papers outside those narrowly disclosed. Nor is there any suggestion that the process of Didwania can be used outside the concentration or composition limitations disclosed. Therefore, it cannot be said that there is any reasonable expectation that such a process, which is narrowly defined to separate the cellulosic fibers of a specific subset of latex bonded cellulosic papers, could successfully separate the synthetic fibers of a synthetic nonwoven material. As such, Didwania actually teaches away from the combination and would dissuade someone from trying to recycle any fabric but latex bonded paper.

Therefore, Appellants refute the Examiner's repeated assertions in the Examiner's Answer, under point (10) (Response to Argument), that one skilled in the art would be motivated to recycle fabrics of Milding by the process of Didwania. As discussed above, one skilled in the art who was motivated to recycle the fabrics of synthetic fibers of Milding would never even consider Didwania as a possible process for such recycling. Didwania teaches a very specific process, with very specific bath formulations and very particular process settings, for separating latex bonded paper having cellulose fibers. Didwania teaches away from the combination; such a specified process would dissuade one skilled in the art from even considering such a process for recycling fibers from any fabric except those of the latex bonded paper disclosed.

Appellants also fail to see the relevance of Examiner's reference to the claims of the present invention in refuting Appellants arguments to the motivation to combine the cited references. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicants' disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) (MPEP 2142 - 2143). In the absence of other evidence of motivation to combine the cited references, it appears that the Examiner is using the improper hindsight of the Appellants' disclosure. As there is no motivation in either Didwania or Milding to combine such references, the cited combination does not establish a *prima facie* case of obviousness.

For the reasons stated above and in Appellants' Appeal Brief it is Appellants' position that the Examiner's rejection of claims has been shown to be untenable and should be reversed by the Board.

Any prosecutorial fees which may be due may be charged to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: 770-587-8640

Respectfully submitted,

PALACIO ET AL.

By: 

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CERTIFICATE OF FACSIMILE TRANSMISSION

I, Nathan Hendon, hereby certify that on June 21, 2005, this document is being sent by facsimile to the United States Patent and Trademark Office, central facsimile number for all patent application related correspondence, at 703-872-9306.

By: 

Nathan Hendon